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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,621	12/18/2001	David Slocum	24837/04231	3926

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EXAMINER

PHAM, HOA Q

ART UNIT PAPER NUMBER

2877

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/023,621

Applicant(s)

SLOCUM ET AL.

Examiner

Hoa Q. Pham

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-4, 8-10, 14, 16-20 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Boles et al (6,163,377)

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in

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the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

The teachings of Boles et al (Boles) read on claims 1-4, 8-10, 14, 16-20 and 25 of the present application.

Regarding claim 1, Boles discloses a case (10) having a shape, a plurality of case supporting elements (30) extending from the case uniformly distributed around a perimeter of the case (figures 3-5).

Regarding claim 2, figure 1 shows that the support elements are a separate support structure from the case.

Regarding claim 3, figures 4-5 show that the support elements are integral with the case.

Regarding claim 4, figures 2 and 3 show four case supporting elements.

Regarding claims 8-9, see figure 3 of Boles for equidistant from each element.

Regarding claim 10, element 26 is a suction cup (column 3 lines 20-25).

Regarding claim 14, Boles teaches that layer H is an opaque layer (column 4 lines 25-26).

Regarding claim 16, figure 5 shows top half (14) and bottom half (12).

Regarding claims 17-20, see the tongue and groove (16) in figure 4 for fastening means.

Regarding claim 25, the case house electronic and optic components (48, 38, etc..).

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3. Claims 1, 3-4, 6-10, and 15-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen (Des. 432,516).

The teachings of Chen read on claims 1, 3-4, 6-10 and 15-17 of the present application. See figures 1 and 3.

4. Claims 1-4, 8-10, and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Booty, Jr. (5,940,350).

Regarding claim 1, Booty discloses a case (12) having a shape, a plurality of case supporting elements (62) extending from the case uniformly distributed around a perimeter of the case (figure 2).

Regarding claim 2, figure 2 shows that the support elements are a separate support structure from the case.

Regarding claim 3, figures 3-4 show that the support elements are integral with the case.

Regarding claim 4, figures 2 and 3 show three case supporting elements.

Regarding claims 8-9, see figures 2-3 of Booty for equidistant from each element.

Regarding claim 10, element 30 is a suction cup (column 3 lines 40-41).

Regarding claims 15-17, figures 3 and 5 show top half and bottom half are fasten by a plurality of crews (36).

Claim Rejections - 35 USC § 103

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skop Jr. et al (5,270,540) in view of King et al (6,296,426).

Regarding claim 1, Skop et al discloses a monitor calibrator in which the suction cup assembly (14) is used for attaching to the monitor (15). Skop et al does not explicitly teach that a plurality of supporting elements extending from the housing (12) uniformly distributed around a perimeter of the housing. However, such a feature is known in the art as taught by King et al. King et al teach that the supporting elements (12) and suction cups (14) can be attached to a tool (40) (figures 1 and 5). Those of ordinary skill in the art at the time the invention was made to replace the suction cup assembly of Skop et al by a suction cup assembly of King et al. The rationale for this modification would have arisen from the fact that using such suction cup assembly would ensure that the tool and tool fixture to be held in place against the work surface as suggested by King et al (column 2 lines 39-44).

Regarding claim 2, column 3 lines 30-32 of Skop teaches that the suction cup is attached to the housing 12.

Regarding claim 3, figures 2 of Skop et al show that the support elements are integral with the case.

Regarding claim 4, figure 1 of King et al show four case supporting elements.

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Regarding claim 5, see figure 1 of King et al for "C" channel.

Regarding claims 6 and 7, figure 2 of King et al shows a foot at an end of each supporting element.

Regarding claims 8-9, see figure 1 of King et al for equidistant from each element.

Regarding claim 10, element 14 of King et al is a suction cup (column 2 lines 40-41).

Regarding claim 11, see figure 1 of King et al for cavity (20).

Regarding claims 12 and 23, it would have been obvious to including a cap mounted on the top of the calibrator if the suction cup assembly is mounted on the top of the calibrator.

Regarding claim 13, it would have been obvious to include in Skop et al a diffuser. The rationale for this modification would have arisen from the fact that using such diffuser would increase the uniformity of the intensity from the light source.

Regarding claim 14, it would have been obvious to include in Skop a shielding layer at the bottom of the housing, thus to prevent ambient light that may enter the calibrator.

Regarding claims 15-16, figure 2 of Skop et al shows top half (12b) and bottom half (12a).

Regarding claims 17-22 and 24, It would have been obvious to use any kinds of fasten means because they would function in the same manner.

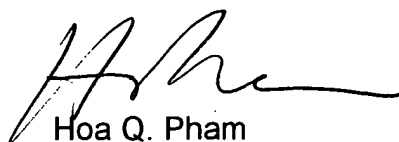
Regarding claim 25, figure 2 of Skop shows that electronic and optic components (22, 24, 29, etc..) locate within the house (12).

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fox et al (6,067,166) discloses a colorimeter, Bohan et al (5,371,537) discloses a monitor calibrator.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa Q. Pham whose telephone number is (703) 308-4808. The examiner can normally be reached on 6:30 AM to 5 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (703) 308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Hoa Q. Pham

Primary Examiner

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HP

March 10, 2003